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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,716	05/30/2006	Robert Kopetzky	41587-406	1614
29493	7590	11/09/2007		
HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			EXAMINER WHITE, RODNEY BARNETT	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,716

Applicant(s)

KOPETZKY ET AL.

Examiner

Rodney B. White

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57-70 and 76-79 is/are rejected.
- 7) ☒ Claim(s) 71-75 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 57-59, 63-70, and 76-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Beerbaum et al (DE 3843616 A1).

Beerbaum et al teach the structures as claimed an adjuster for the vertical adjustment of a head restraint having at least two support elements, comprising: a head restraint holding module for holding the head restraint, the head restraint holding module having adjustment means variable in at least one adjustment direction for vertical adjustment of the head restraint held by head restraint holding module, the head restraint having drive means for producing an adjustment movement for moving the adjustment means, wherein a separate flexible transmission means and a separate adjustment means are in communication with each support element, and wherein each transmission means transfers the adjustment movement of the drive means to the adjustment means in communication with each respective support element, wherein the head restraint holding module further comprises: at least two holding modules, whereby each of the at least two holding modules is associated with one of the at least two support elements and is designed to accommodate the same; whereby one of said separate adjustment means is in communication with each of the at least two holding modules; and wherein the adjustment means of the at least two holding modules are at a distance from one another, wherein the transmission means comprises: common transmission means for transfer of the adjustment movement of the drive means to distribution means, whereby the distribution

means transfers the adjustment movement from the common transmission means to the separate transmission means to the same extent, wherein the transmission means comprises at least one Bowden cable 15, further comprising: the transmission means being adapted to transfer a force to the adjustment means for movement of the adjustment means in a first adjustment direction; the head restraint holding module further comprises mechanical energy storage means coupled with the adjustment means, the mechanical energy storage means adapted to take up energy on movement of the adjustment means in the first adjustment direction; and wherein the mechanical energy storage means assists movement of the adjustment means in a second adjustment direction by releasing stored energy, wherein the first adjustment direction is different from the second adjustment direction, wherein the mechanical energy storage means is flexible, wherein the mechanical energy storage means comprises a spring, wherein the spring is in communication with the adjustment means; wherein the spring is tensioned on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the spring is in communication with the adjustment means; wherein the spring is compressed on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the mechanical energy storage means is disposed on at least one support bar, the mechanical energy storage means being coupled to the head restraint and further coupled to the adjustment means, wherein the

adjuster comprises an actuation device for operation of the drive means, wherein the drive means is disposed at a distance from the head restraint holding module, wherein the separate transmission means transfers the adjustment movement of the drive means essentially in the same direction to the adjustment means, wherein the seat comprises an adjuster for the vertical adjustment of the head restraint (See Figures 1-2 and specification).

Claims 57-59, 63-70, and 76-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck (U.S. Patent Application Publication No. 2001/0013718 A1).

Beck teaches the structures as claimed an adjuster for the vertical adjustment of a head restraint having at least two support elements, comprising: a head restraint holding module for holding the head restraint, the head restraint holding module having adjustment means variable in at least one adjustment direction for vertical adjustment of the head restraint held by head restraint holding module, the head restraint having drive means for producing an adjustment movement for moving the adjustment means, wherein a separate flexible transmission means and a separate adjustment means are in communication with each support element, and wherein each transmission means transfers the adjustment movement of the drive means to the adjustment means in communication with each respective support element, wherein the head restraint holding module further comprises: at least two holding modules,

whereby each of the at least two holding modules is associated with one of the at least two support elements and is designed to accommodate the same; whereby one of said separate adjustment means is in communication with each of the at least two holding modules; and wherein the adjustment means of the at least two holding modules are at a distance from one another, wherein the transmission means comprises: common transmission means for transfer of the adjustment movement of the drive means to distribution means, whereby the distribution means transfers the adjustment movement from the common transmission means to the separate transmission means to the same extent, wherein the transmission means comprises at least one Bowden cable 74, further comprising: the transmission means being adapted to transfer a force to the adjustment means for movement of the adjustment means in a first adjustment direction; the head restraint holding module further comprises mechanical energy storage means coupled with the adjustment means, the mechanical energy storage means adapted to take up energy on movement of the adjustment means in the first adjustment direction; and wherein the mechanical energy storage means assists movement of the adjustment means in a second adjustment direction by releasing stored energy, wherein the first adjustment direction is different from the second adjustment direction, wherein the mechanical energy storage means is flexible, wherein the mechanical energy storage means comprises a spring, wherein the spring is in communication with the adjustment means; wherein the spring is tensioned on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means

in the second adjustment direction, wherein the spring is in communication with the adjustment means; wherein the spring is compressed on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the mechanical energy storage means is disposed on at least one support bar, the mechanical energy storage means being coupled to the head restraint and further coupled to the adjustment means, wherein the adjuster comprises an actuation device for operation of the drive means, wherein the drive means is disposed at a distance from the head restraint holding module, wherein the separate transmission means transfers the adjustment movement of the drive means essentially in the same direction to the adjustment means, wherein the seat comprises an adjuster for the vertical adjustment of the head restraint.

Claims 57-59, 61-70, and 76-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer et al (U.S. Patent No. 6,390,558 B2).

Fischer et al teaches the structures as claimed an adjuster for the vertical adjustment of a head restraint having at least two support elements, comprising: a head restraint holding module for holding the head restraint, the head restraint holding module having adjustment means variable in at least one adjustment direction for vertical adjustment of the head restraint held by head restraint holding module, the head restraint having drive means for producing an

adjustment movement for moving the adjustment means, wherein a separate flexible transmission means and a separate adjustment means are in communication with each support element, and wherein each transmission means transfers the adjustment movement of the drive means to the adjustment means in communication with each respective support element, wherein the head restraint holding module further comprises: at least two holding modules, whereby each of the at least two holding modules is associated with one of the at least two support elements and is designed to accommodate the same; whereby one of said separate adjustment means is in communication with each of the at least two holding modules; and wherein the adjustment means of the at least two holding modules are at a distance from one another, wherein the transmission means comprises: common transmission means for transfer of the adjustment movement of the drive means to distribution means, whereby the distribution means transfers the adjustment movement from the common transmission means to the separate transmission means to the same extent, wherein the drive means comprises a gear mechanism 6 for transfer of the adjustment movement to the transmission means, wherein the separate transmission means each comprise exactly one transmission element for transfer of the adjustment movement of the drive means to the adjustment means **wherein** the transmission means comprises at least one Bowden cable 5, 7; further comprising: the transmission means being adapted to transfer a force to the adjustment means for movement of the adjustment means in a first adjustment direction; the head restraint holding module further comprises mechanical energy

storage means coupled with the adjustment means, the mechanical energy storage means adapted to take up energy on movement of the adjustment means in the first adjustment direction; and wherein the mechanical energy storage means assists movement of the adjustment means in a second adjustment direction by releasing stored energy, wherein the first adjustment direction is different from the second adjustment direction, wherein the mechanical energy storage means is flexible, wherein the mechanical energy storage means comprises a spring, wherein the spring is in communication with the adjustment means; wherein the spring is tensioned on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the spring is in communication with the adjustment means; wherein the spring is compressed on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the mechanical energy storage means is disposed on at least one support bar, the mechanical energy storage means being coupled to the head restraint and further coupled to the adjustment means, wherein the adjuster comprises an actuation device for operation of the drive means, wherein the drive means is disposed at a distance from the head restraint holding module, wherein the separate transmission means transfers the adjustment movement of the drive means essentially in the same direction to the adjustment means, wherein the seat comprises an adjuster for the vertical adjustment of the head restraint.

Claims 57-60, 62-70, and 76-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Malsch et al (U.S. Patent No. 7,121,625 B2).

Malsch et al teach the structures as claimed an adjuster for the vertical adjustment of a head restraint having at least two support elements, comprising: a head restraint holding module for holding the head restraint, the head restraint holding module having adjustment means variable in at least one adjustment direction for vertical adjustment of the head restraint held by head restraint holding module, the head restraint having drive means for producing an adjustment movement for moving the adjustment means, wherein a separate flexible transmission means and a separate adjustment means are in communication with each support element, and wherein each transmission means transfers the adjustment movement of the drive means to the adjustment means in communication with each respective support element, wherein the head restraint holding module further comprises: at least two holding modules, whereby each of the at least two holding modules is associated with one of the at least two support elements and is designed to accommodate the same; whereby one of said separate adjustment means is in communication with each of the at least two holding modules; and wherein the adjustment means of the at least two holding modules are at a distance from one another, wherein the transmission means comprises: common transmission means for transfer of the adjustment movement of the drive means to distribution means, whereby the distribution

means transfers the adjustment movement from the common transmission means to the separate transmission means to the same extent, wherein the drive means comprises an electric motor 126 for producing the adjustment movement, wherein the separate transmission means each comprise exactly one transmission element for transfer of the adjustment movement of the drive means to the adjustment means, **wherein** the transmission means comprises at least one Bowden cable 128; further comprising: the transmission means being adapted to transfer a force to the adjustment means for movement of the adjustment means in a first adjustment direction; the head restraint holding module further comprises mechanical energy storage means coupled with the adjustment means, the mechanical energy storage means adapted to take up energy on movement of the adjustment means in the first adjustment direction; and wherein the mechanical energy storage means assists movement of the adjustment means in a second adjustment direction by releasing stored energy, wherein the first adjustment direction is different from the second adjustment direction, wherein the mechanical energy storage means is flexible, wherein the mechanical energy storage means comprises a spring, wherein the spring is in communication with the adjustment means; wherein the spring is tensioned on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the movement of the adjustment means in the second adjustment direction, wherein the spring is in communication with the adjustment means; wherein the spring is compressed on movement of the adjustment means in the first adjustment direction; and wherein the spring assists the

movement of the adjustment means in the second adjustment direction, wherein the mechanical energy storage means is disposed on at least one support bar, the mechanical energy storage means being coupled to the head restraint and further coupled to the adjustment means, wherein the adjuster comprises an actuation device for operation of the drive means, wherein the drive means is disposed at a distance from the head restraint holding module, wherein the separate transmission means transfers the adjustment movement of the drive means essentially in the same direction to the adjustment means, wherein the seat comprises an adjuster for the vertical adjustment of the head restraint.

Claims 71-75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

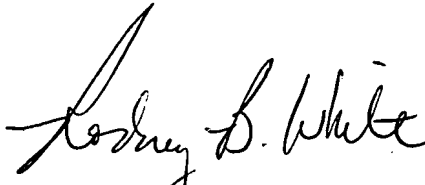
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Och et al, Specht, and Tame teach structures similar to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,
Patent Examiner
Art Unit 3636
November 7, 2007



RODNEY B. WHITE
PRIMARY EXAMINER